

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-3987

United States of America,

Appellee,

v.

Ruth M. Carter,

Appellant.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: October 26, 2001

Filed: October 29, 2001

Before HANSEN, FAGG, and BEAM, Circuit Judges.

PER CURIAM.

Ruth Carter pleaded guilty to attempting to manufacture a mixture or substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 846. Carter unsuccessfully moved to withdraw her guilty plea, and the district court¹ sentenced her to 188 months imprisonment and 5 years supervised release. Carter appeals, arguing that the district court erred in denying her motion to withdraw her plea, and in applying a firearm enhancement.

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.

After careful review of the record, we find no abuse of discretion in the denial of Carter's motion, because she did not present to the district court a fair and just reason for withdrawing her plea. See United States v. Payton, 168 F.3d 1103, 1104-05 (8th Cir.) (standard of review; defendant must present "fair and just" reason for withdrawing guilty plea), cert. denied, 528 U.S. 843 (1999); see also United States v. Aguayo-Delgado, 220 F.3d 926, 932-34 (8th Cir.), cert. denied, 531 U.S. 1026 (2000). In addition, the district court did not clearly err in finding that it was not "clearly improbable" that the firearm recovered (along with cash and drugs) from the bedroom of a house Carter co-owned was connected with Carter's offense. See U.S.S.G. § 2D1.1, comment. (n.3) (adjustment appropriate where weapon was present unless it is "clearly improbable" weapon was connected with offense); United States v. Moore, 212 F.3d 441, 447 (8th Cir. 2000) (standard of review).

We note that the judgment contains a typographical error, and thus we direct that it be amended to reflect that Carter was convicted under 21 U.S.C. § 841(b)(1)(C) rather than 21 U.S.C. § 841(b)(1)(B). Accordingly, we affirm the judgment of the district court as amended.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.